

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Universal Service Contribution Methodology) WC Docket No. 06-122
)

Reply Comments

The AdHoc Telecommunications Users Committee (“AdHoc”) hereby submits its reply to certain comments filed in the above-captioned proceeding on August 9, 2006.

Virtually all commenting parties support replacing the existing revenue-based USF assessment methodology with a numbers-based USF assessment system, and virtually all of them urge the Commission to not delay in doing so. AdHoc agrees.

AdHoc does not, however, agree with suggestions that (1) the Commission assess non-switched connections in a “[m]anner consistent with the capacity tiers (and units) proposed in the FCC’s *2002 Second FNPRM*”¹; (2) that “[c]ombining enterprise-level transmission services – whether connections-based or revenue-based – will ensure that the heaviest users of the network contribute proportionately to universal service”²; (3) “[h]ousehold or family discounts may be appropriate in some situations (*e.g.*, family share plans with multiple cell phone numbers)”³; and (4) [i]t might also be worthwhile to consider adopting a

¹ CTIA Comments at 5, emphasis added.

² Time Warner Inc., Comments at 5.

³ Information Technology Industry Council Comments at 6.

contribution methodology such as a connections-based approach with respect to USF contributions for high-capacity lines.”⁴ These proposals do not acknowledge actual contribution burdens under a pure numbers-based assessment methodology, could shift massive contribution obligations to business broadband subscribers, are not competitively neutral, would result in indefensible discrimination, and would insert unpredictability into establishing USF contributions. The Commission should, indeed, move expeditiously to a numbers-based USF assessment methodology, but it should be a *pure* numbers-based methodology.

On May 18, 2006, AdHoc filed an *ex parte* letter that responded to CTIA’s plea for discounts for non-primary phones on wireless family plans.⁵ Among the points made in AdHoc’s filing are the following:

- CTIA’s support for a telephone numbers based USF assessment methodology appears to depend on the Commission providing the wireless industry with discriminatory, special interest concessions that would be the antithesis of a competitively neutral methodology. Discounted USF assessments on family plan phone numbers would in effect favor wireless service over landline service for which every working telephone would be assessed a full USF contribution.
- CTIA’s plea for favorable discriminatory treatment is indistinguishable in principle from earlier efforts to win reduced USF

⁴ Time Warner at 7

⁵ AdHoc, *Ex parte* contact in Federal-State Joint Board on Universal Service; CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116 and 98-170

assessments for Centrex lines. In both cases there are separate connections to the network for each telephone number, and in both cases service providers seek regulatory advantage for their particular service.

- CTIA's request for favorable discrimination cannot be, and has not been, justified on affordability or rate shock grounds. Perhaps CTIA's real concern is loss of a marketing advantage that it perceives it has with shared family plans. Competitive neutrality, however, demands that all phone numbers be assessed alike, except for exemptions for telephone numbers associated with low income subscriber connections.
- The per number USF assessment required to meet the apparently insatiable needs of the Universal Service Fund would, of course, climb with each special interest accommodation. There is no rational basis for distinguishing CTIA's plea for favorable discrimination from similar pleas made by Centrex providers, colleges and universities, and telematics providers. Will similar concessions be made to all non-profit organizations and for budget constrained governmental bodies? If service providers need a year to implement a numbers-based USF assessment methodology, these various entities will have sufficient time to factor the new assessment methodology into their pricing, budgets and business cases.

- No logical or economically rational reason justifies transferring higher levels of USF funding obligations to businesses, non-profits and governmental entities as they use efficiency enhancing higher bandwidth services. Surely this Commission would not want to adopt policies that impose economic penalties on organizations that seek to use broadband connections to compete in the global economy and to deliver services efficiently. The Nation would lose if the Commission were to grant CTIA's plea to impose massive USF obligations on business broadband subscribers.
- Under a pure numbers-based USF assessment methodology, and assuming a \$1.00 per number USF assessment, the typical residential customer will pay \$1.00 per month per number, while business customers would pay on average \$4.00 per month per number. Even though residential users account for 70% of all non-broadband connections to the public switched network (wireline and wireless combined), business users will pay fully 50% of the USF assessments under a purely numbers-based assessment methodology. Tables 1 through 4 of AdHoc's May 18, 2006 *ex parte* set forth the data sources and calculations that produce the above-referenced estimated assessments. The disproportionate payment from business users will occur because business users often have far more than one telephone number associated with each connection to the public switched network.

In an August 11, 2006 *ex parte*, AdHoc demonstrated that, “Under a pure numbers-based assessment methodology, business users will pay a larger percentage of USF funding than under the current revenue-based assessment methodology.”⁶ USF assessments collected from business users under the current revenue-based assessment methodology constitute between 42% and 46% of the total USF collections, compared to the greater than 50% that would come from business users under a pure numbers-based assessment methodology. Tables 1 through 5 of the August 11 *ex parte* support these conclusions.

Nevertheless, or perhaps without considering the foregoing, CTIA and now Time Warner and seemingly ITI would impose even greater burdens on business users through capacity based assessments on special access lines. Time Warner asserts, without any supporting data, that “[c]ombining the numbers-based approach with a separate assessment on special access services and comparable enterprise-level transmission services – whether connections-based or revenue-based will ensure that heaviest users of network contribute proportionately to universal service.”⁷ As explained above, business users under a pure numbers-based assessment methodology would pay more per switched access connection than residential customers and would pay more under a pure numbers-based scheme than under the current revenue-based methodology. Business users, under a pure numbers-based assessment

⁶ AdHoc, *Ex parte* contact in *Universal Service Contribution Methodology Federal-State Joint Board on Universal Service*, WC Docket No. 06-122, August 11, 2006

⁷ Time Warner, Comments at 5

methodology, would not “get off easy.” Indeed, they would pay more than their share.

Finally, CTIA’s suggestion that the Commission exempt residential broadband services, but not business broadband services, associated with telephone numbers from USF connections-based assessments constitutes unjustified discrimination.⁸ AdHoc will not explain yet again why such discrimination would be unlawful. Instead, AdHoc refers the Commission to pages 5-6 of its May 18, 2006 *ex parte* filing. Therein AdHoc explains that the Commission cannot lawfully impose capacity-based USF assessments on business, but not residential broadband connections, used to access switched services with which telephone numbers are associated. USF assessments should be imposed on the telephone numbers associated with services supported by broadband connections, not on the capacity of the residential or business broadband connections.

AdHoc also has explained that,

As telecommunications networks become IP networks, applications for residential and business customers will converge on single integrated networks with bundled pricing. Internet access will be one of many applications using these converged networks. Network capacity rather than usage will be sold. Networks will not distinguish between voice packets, video packets, data packets and Internet usage packets, except when class of service (“CoS”) markers are attached to real time applications, such as voice, (But not all users will utilize CoS markers), or perhaps when broadband providers want to extract premium rates. Moreover, in any period of time Internet access service will consume more or less of the bandwidth on IP networks, and it will be impossible to determine reasonably how much capacity is

⁸ CTIA, Comments at 6-7.

consumed by Internet access. Such determinations, however, would be necessary because Internet access service is not subject to USF contributions as a result of the regulatory classification of that service under the *BWIA Order*. The implications of the *BWIA Order* and rapidly emerging network technology make clear that imposing capacity-based USF contributions on broadband connections to which residential customers and businesses subscribe would be anything but visionary.⁹

In view of the foregoing, AdHoc urges the Commission to adopt expeditiously a pure numbers-based USF assessment methodology. The Commission should reject suggestions that it impose unnecessary USF assessments on business broadband connections. Such assessments would penalize entities who seek to use telecommunications to support growing numbers of efficiency enhancing applications that enhance our Nation's competitiveness and better deliver services to constituents and customers.

Respectfully submitted,



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⁹ AdHoc, *Ex parte* contact in Federal-State Joint Board on Universal Service; CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116 and 98-170 (footnotes omitted).

Certificate of Service

I, Dorothy Nederman, hereby certify that true and correct copies of the preceding Reply Comments of AdHoc Telecommunications Users Committee were filed this 8th day of September, 2006 via the FCC's ECFS system and by email to:

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